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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,562	03/12/2001	Gregory Dwight	3690P2271	9134
23504	7590	08/09/2005	EXAMINER	
WEISS & MOY PC 4204 NORTH BROWN AVENUE SCOTTSDALE, AZ 85251			OYEBISI, OJO O	
			ART UNIT	PAPER NUMBER

3628

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/802,562

Applicant(s)

DWIGHT, GREGORY

Examiner

OJO O. OYEBISI

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03/12/2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-22 are rejected under 35 U.S.C 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

Claims 1-22 do not apply, involve, use, or advance the technological arts since all of the recited steps can be performed in the mind of the user or by use a pencil and paper.

Furthermore, the applicant should note that mere rephrasing the language of the claim to draw the claim to statutory subject matter is necessary but not sufficient to make the claimed invention patentable. In the present case, claims 1-22 are directed to non-statutory subject matter, but even if claims 1-22 are directed to

statutory subject matter, this alone would not create sufficient ground for allowance. Every method described in claims 1-22 can be carried out manually, thus automation of a manual process which has accomplished the same result involves only routine skill in the art. In re Venner, 120 USPQ 192.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Encyclopedia of Mortgage and Real Estate Finance (EM hereinafter: Albert Santi, Jan 1998, Mortgage Bankers Association of America's Real Estate Finance Press, Revised Edition, pgs 64-65, 160, 206, 218, 303).

Re Claim 1, 7, 9-10: EM discloses a method for earning equity while renting (i.e., lease purchase, see pg 206) wherein the earned equity may be used for costs associated with a purchase of a home comprising the steps of: forming a relationship between a mortgage company (i.e., lender, see lease purchase pg 206), a property management group (i.e., seller, lease purchase, see pg 206); and a real estate company (i.e., real estate broker, see pg 303); signing a lease agreement between a tenant and the property management group for a rented residence; applying for a mortgage loan by the tenant with the mortgage company; purchasing the home by the tenant through the real estate company;

splitting a commission on sale of the home between the real estate company and the property management group (i.e., a broker usually work for the seller, who pays their commission, see Real Estate broker, pg 303)

EM does not explicitly disclose: gifting of portion of the commission received by the property management group to the tenant. However, EM teaches that lenders allow a borrower to provide all or at least some of the required down payment for a loan in the form of a gift from a third party (see gift letter, pg 160). Thus, since gifting is allowed, a seller who is eager to sell would have been motivated to gift portion of the commission received from the sale of the real estate to the buyer so that the buyer can use this concession towards the down payment.

Re claim 2, 11: EM discloses a method as stated supra further comprising the step of signing an intent to purchase agreement by the tenant after signing the lease agreement (see lease purchase, last paragraph, pg 206).

Re claim 3: EM discloses a method as stated supra further comprising the step of paying of rental payments by the tenant for the rented residence (see lease purchase, 1st paragraph, pg 206).

Re claim 4, 12: EM discloses a method as stated supra further comprising the steps of: paying of rental payments by the tenant for the rented residence; and remaining in the rented residence during the entire term of the lease (see lease purchase, 1st paragraph, pg 206).

Re claim 5, 13: EM discloses a method as stated supra further comprising the step of applying for a mortgage loan by the tenant with the mortgage company

further comprises the steps of: resolving any credit issues of the tenant during the term of the lease; and qualifying the tenant for a home mortgage loan (see step 3: Loan processing, pg 218, and step 2b: A deficiency in the loan application, pg 218).

Re claim 6, 14: EM discloses a method as stated supra further comprising the step of showing homes by the real estate company to the tenant (i.e., serves as an agent for owners in helping with the sale or lease of their property, see real estate broker, pg 303). Further, it's in the interest of a real estate company to show homes for buyers to purchase and tenants to rent because they get commission for their job.

Re claim 8: EM discloses a method as stated supra wherein the costs associated with the purchase of the home are a down payment for the home, closing costs associated with the purchase, and interest rate buy down (see lease purchase, pg 206 and conventional loan, pg 64-65).

Re claim 15: EM does not explicitly disclose the method further comprises the step of equally splitting the commission of the home sale between the real estate company and the property management group. However, if it serves the interest of the real estate company and the property management group to split the commission received from the home sale equally and if this term is included in the contract, then it would have been obvious to the parties involved to execute what is in the contract at the time of sale.

Re claim 16: EM does not explicitly disclose the method further comprises the

step of gifting of approximately 40 to 80 percent of the commission received by the property management group to the tenant. However, EM teaches that lenders allow a borrower to provide all or at least some of the required down payment for a loan in the form of a gift from a third party (see gift letter, pg 160). Thus, the property management group (i.e., seller), eager to sell, would have been motivated to gift approximately 40 to 80 percent of the commission received from the sale of the real estate to the tenant if that is what the tenant would need to finance some of the costs associated with the purchase of a real estate.

Re claim 17: EM discloses a method as stated supra further comprising purchasing a home by the tenant through the real estate company (i.e., serves as an agent for owners in helping with the sale or lease of their property, see real estate broker, pg 303) except for applying for a mortgage loan by the tenant with a mortgage company associated with the property management group. Thus, since the mortgage loan can be obtained from any mortgage company as long as the tenant meets the necessary requirements, there is no reason why the tenant would not be able to apply for mortgage loan with a mortgage company associated with the property management group.

Re claim 18: EM discloses the method as stated supra except for gifting a portion of the commission received by the property management group to the tenant. However, it is a common practice for a property management group (i.e., seller) to give a portion of the commission received from

the real estate proceeds to the tenant (i.e., buyer) so that the tenant can use this to finance some of the costs associated with the purchase of real estate.

Re claim 19: EM discloses a method as stated supra further comprising the steps of: paying of rental payments by the tenant for the rented residence; and remaining in the rented residence during the entire term of the lease (see lease purchase, 1st paragraph, pg 206).

Re claim 20: EM discloses a method as stated supra further comprising the step of applying for a mortgage loan by the tenant with the mortgage company further comprises the steps of: resolving any credit issues of the tenant during the term of the lease; and qualifying the tenant for a home mortgage loan (see step 3: Loan processing, pg 218, and step 2b: A deficiency in the loan application, pg 218).

Re claim 21: EM does not explicitly disclose the method further comprises the step of equally splitting the commission of the home sale between the real estate company and the property management group. However, if it serves the interest of the real estate company and the property management group to split the commission received from the home sale equally and if this term is included in the contract, then it would have been obvious to the parties involved to execute what is in the contract at the time of sale.

Re claim 22: EM does not explicitly disclose the method further comprises the step of gifting of approximately 40 to 80 percent of the commission received by the property management group to the tenant. However, EM teaches that lenders


allow a borrower to provide all or at least some of the required down payment for a loan in the form of a gift from a third party (see gift letter, pg 160). Thus, the property management group (i.e., seller), eager to sell, would have been motivated to gift approximately 40 to 80 percent of the commission received from the sale of the real estate to the tenant if that is what the tenant would need to finance some of the costs associated with the purchase of a real estate.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OJO O. OYEBISI whose telephone number is (571) 272-8298. The examiner can normally be reached on 8:30A.M-5:30P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HYUNG S. SOUGH can be reached on (571)272-6799. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


DAVID VINCENT
PRIMARY EXAMINER